

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

United States of America,
Plaintiff,

vs.

Case No. 14-10005-01-JTM

David G. Nicholas, Jr.,
Defendant.

MEMORANDUM AND ORDER

On January 25, 2016, the court by Memorandum and Order (Dkt. 145) addressed various objections offered by defendant David G. Nicholas to the proposed sentence, in particular objections addressing the application of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(2). The defendant's objections were overruled.

Nicholas has filed a Motion for Reconsideration (Dkt. 147), but this pleading fails to identify any error in the court's Order of January 25. The 1988 Montana aggravated assault, the 1999 Kansas robbery, and the 2003 Kansas aggravated robbery were crimes of violence within the meaning of the ACCA and the Sentencing Guidelines. In particular, the court again notes that the Tenth Circuit's recent decision in *United States v. Castillo*, 2015 WL 8787441, *3 (10th Cir. Dec. 15, 2015) supports its determination with respect to the

Kansas robberies.

The defendant's objections to the Second Amended Presentence Investigation Report (Dkt. 141) are and remain overruled.

IT IS ACCORDINGLY ORDERED this 25th day of February, 2016, that the defendant's Motion to Reconsider (Dkt. 147) is hereby denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE